

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ROW VAUGHN WELLS, INDIVIDUALLY)
AND AS ADMINISTRATRIX OF THE)
ESTATE OF TYRE DEANDRE NICHOLS,)
DECEASED,)
Plaintiffs,)
v.)
THE CITY OF MEMPHIS, A) CASE NO. 2:23-CV-02224
MUNICIPALITY; CHIEF CERELYN DAVIS,) JURY DEMAND
IN HER OFFICIAL CAPACITY; EMMITT)
MARTIN III, IN HIS INDIVIDUAL)
CAPACITY; DEMETRIUS HALEY, IN HIS)
INDIVIDUAL CAPACITY; JUSTIN SMITH,)
IN HIS INDIVIDUAL CAPACITY;)
DESMOND MILLS, JR. IN HIS INDIVIDUAL)
CAPACITY; TADARRIUS BEAN, IN HIS)
INDIVIDUAL CAPACITY; PRESTON)
HEMPHILL, IN HIS INDIVIDUAL)
CAPACITY; ROBERT LONG, IN HIS)
INDIVIDUAL CAPACITY; JAMICHAEL)
SANDRIDGE, IN HIS INDIVIDUAL)
CAPACITY; MICHELLE WHITAKER, IN)
HER INDIVIDUAL CAPACITY; DEWAYNE)
SMITH, IN HIS INDIVIDUAL CAPACITY)
AND AS AGENT OF THE CITY OF)
MEMPHIS,)
Defendants.)

**DEFENDANT CITY OF MEMPHIS'S MOTION TO MODIFY THE SECOND
AMENDED SCHEDULING ORDER PURSUANT TO ECF NO. 201**

Defendant City of Memphis (the “City”) moves this Court for an Order granting the Joint Motion to Modify the Second Amended Scheduling Order. (ECF No. 201.) In support of this Motion, the City states as follows:

1. Plaintiff filed her Complaint in this action on April 19, 2023. (ECF No. 1.)

2. This Court entered the original Scheduling Order on September 21, 2023. (ECF No. 111.) On January 23, 2024, upon an unopposed motion by Plaintiff, this Court entered a First Amended Scheduling Order (“Amended Scheduling Order”). (ECF No. 151.) On April 26, 2024, upon a second unopposed motion by Plaintiff, this Court entered a Second Amended Scheduling Order (“Second Amended Scheduling Order”). (ECF No. 185.)

3. Pursuant to the Second Amended Scheduling Order, the operative final deadlines for this matter are as follows:

COMPLETING ALL DISCOVERY: August 30, 2024

- (a) **DOCUMENT PRODUCTION AND INTERROGATORIES:** July 2, 2024
- (b) **DEPOSITIONS:** August 30, 2024
- (c) **REQUESTS FOR ADMISSIONS:** July 2, 2024

EXPERT WITNESS DISCLOSURE PURSUANT TO FED. R. CIV. P. 26(A)(2):

- (a) **DISCLOSURE OF PLAINTIFF’S (OR PARTY WITH BURDEN OR PROOF) RULE 26(A)(2) EXPERT INFORMATION:** September 2, 2024
- (b) **DISCLOSURE OF DEFENDANT’S (OR OPPOSING PARTY) RULE 26(A)(2) EXPERT INFORMATION:** October 1, 2024
- (c) **EXPERT WITNESS DEPOSITIONS:** November 1, 2024

MOTIONS TO EXCLUDE EXPERTS/DAUBERT MOTIONS: December 2, 2024

SUPPLEMENTATION UNDER RULE 26(E)(1): October 4, 2024

FILING DISPOSITIVE MOTIONS: October 28, 2024

JOINT PROPOSED PRETRIAL ORDER DUE: March 7, 2025

PRETRIAL CONFERENCE DATE: March 14, 2025

JURY TRIAL: March 24, 2025

4. Defendants Tadarrius Bean, Justin Smith, Demetrius Haley, and Emmitt Martin III all have state criminal prosecutions pending for alleged violations of state law. Defendants Bean,

Justin Smith, and Haley will be tried separately from Defendant Martin. The two state criminal trials will be held in April 2025.¹

5. On September 21, 2023, this Court entered an Order staying this case as to Defendants Haley, Martin, Mills, Bean, and Justin Smith. (ECF No. 110.)

6. Under the Second Amended Scheduling Order, the trial would begin on March 24, 2025, which would be prior to the conclusion of the state criminal cases against Defendants Bean, Justin Smith, Haley, and Martin.

7. On July 18, 2024, the parties to this action filed a Joint Motion to Modify the Second Amended Scheduling Order (“Joint Motion”). (ECF No. 201.) Under this Joint Motion, the Scheduling Order would be modified as follows:

COMPLETING ALL DISCOVERY: December 30, 2024

- (a) **DOCUMENT PRODUCTION AND INTERROGATORIES:** November 1, 2024
- (b) **DEPOSITIONS:** December 30, 2024
- (c) **REQUESTS FOR ADMISSIONS:** November 1, 2024

EXPERT WITNESS DISCLOSURE PURSUANT TO FED. R. CIV. P. 26(A)(2):

- (a) **DISCLOSURE OF PLAINTIFF'S (OR PARTY WITH BURDEN OR PROOF) RULE 26(A)(2) EXPERT INFORMATION:** January 20, 2025
- (b) **DISCLOSURE OF DEFENDANT'S (OR OPPOSING PARTY) RULE 26(A)(2) EXPERT INFORMATION:** February 17, 2025
- (c) **EXPERT WITNESS DEPOSITIONS:** March 17, 2025

MOTIONS TO EXCLUDE EXPERTS/DAUBERT MOTIONS: April 18, 2025

SUPPLEMENTATION UNDER RULE 26(E)(1): January 30, 2025

¹ See Deja Davis & Jessica Knox, *Ex-officers face separate state trials in Tyre Nichols case*, WREG MEMPHIS (Nov. 25, 2024, 4:36 PM), <https://wreg.com/news/local/tyre-nichols/former-mpd-officers-in-tyre-nichols-case-back-in-court/>.

FILING DISPOSITIVE MOTIONS: April 4, 2025

RESPONSES TO DISPOSITIVE MOTIONS: May 2, 2025

REPLIES TO DISPOSITIVE MOTIONS: May 16, 2025

JOINT PROPOSED PRETRIAL ORDER DUE: TBD

PRETRIAL CONFERENCE DATE: TBD

JURY TRIAL: TBD, approximately Summer 2025. Trial is anticipated to last approximately 15 days.

8. The City requests that this Court grant its Motion for Modified Scheduling Order and enter a Third Amended Scheduling Order in this case, consistent with the dates proposed above and in the previously filed Joint Motion. (ECF No. 201.)

Dated: November 26, 2024.

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

s/ Bruce McMullen

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*Attorneys for Defendant City of Memphis,
Chief Cerelyn Davis in her Official
Capacity, and Dewayne Smith as Agent of
the City of Memphis*

CERTIFICATE OF CONSULTATION

I, Bruce McMullen, certify that on November 25, 2024, counsel for the City conferred with counsel for the parties via email, requesting that the parties make clear their position on the relief requested in this Motion. In response, Sarah Raisch, counsel for Plaintiff proposed submitting a Motion for modified scheduling order with dates other than those in this Motion. Accordingly, Plaintiff is opposed to the relief sought herein. A chart detailing Plaintiff's response, as well as the response of the other parties, is below:

Party	Responding Counsel	Opposition?
Plaintiff	Joshua Levin	Yes
Long	No response	
Hemphill	Betsy McKinney	No
D. Smith	Betsy McKinney	No
Whitaker	No response	
Sandridge	No response	
Haley	No response	
Bean	No response	
Martin III	No response	
Mills, Jr.	No response	
J. Smith	Martin Zumach	No

s/ Bruce McMullen
Bruce McMullen

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon all counsel of record and the Guardian Ad Litem via the Court's electronic filing system on November 26, 2024.

s/ Bruce McMullen
Bruce McMullen